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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,403	04/23/2001	David J. Boothby	05110-009003	5942

7590

11/29/2002

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EXAMINER

HOMERE, JEAN RAYMOND

ART UNIT

PAPER NUMBER

2177

DATE MAILED: 11/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840, 403

Applicant(s)

Boothby et al.

Examiner

Homere

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/23/02.
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 35-38 is/are pending in the application.
- Of the above claim(s) None is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 35-38 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 35-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent

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No. 6,223,187. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Claims 35 and 37 are substantially identical to claims 1 and 3 of the cited the patent, except that the limitation, whereby a first record of a first database stored on a first computer transmitted to a second computer storing a second database, such that a code is transmitted to the second computer to identify the first record to the second computer has been omitted from the cited patent to yield claim 35 of the present application. It would have been obvious to one of ordinary skill in the art of data processing to omit the cited limitation from the computer implemented method and the computer program product for identifying record as recited in claims 1 and 3 of the cited patent. Such an omission would simplify the language of the invention as presently claimed in the instant application, without actually modifying the overall synchronization process, as claimed in the cited patent. It has been held that an omission of element and its function in combination is obvious expedient if the remaining elements perform the same functions as before. In re Karlson, 136 USPQ 184 CCPA, 1963.

3. The dependent claims in the instant application recite identical limitation to those in the cited patent. Therefore, they are rejected under the same double patenting as set forth above.

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Specification

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buchanan, U.S. Patent No.5,758,355, in view of Nguyen, U.S. Patent No.5,809,494.

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As to claims 35 and 37, Buchanan substantially discloses the invention including a data processing system for synchronizing a server database with a client database using distribution tables (col. 1, lines 1-10, et seq). In particular, Buchanan discloses a client having a storage medium encoded with an RDBMS (col.4, lines 24-30, et seq), wherein records in a remote server are extracted and sent to the client in order to update and synchronize the client and the server (col. 5, lines 4-7, et seq). Buchanan does not particularly detail the generating of a code based on the contents of a record to thereby attach said code to the record before transferring it from one remote location to another.

Nguyen, however, discloses an analogous system wherein a hashing function using the contents of a record is applied to the particular record to thereby encode said record before the record is utilized (col. 2, lines 34-44, et seq). It would have been obvious to one of ordinary skill in the art of data processing to combine the teachings of the cited references. Such combination would allow users at Buchanan's client computer to more expeditiously and securely extract records from the remote server.

As to claims 36 and 38, Nguyen discloses the hashing of the database records before they are utilized (col.3, lines 8-18, et seq).

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Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

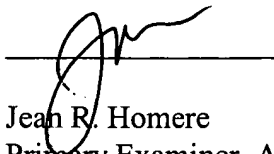
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean R. Homere whose telephone number is (703)-308-6647. The examiner can normally be reached on Monday-Friday from 09:30 a.m.-6:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene, can be reached on Monday-Friday from 8:00 a.m. to 3:30 p.m. at (703)-305-9790.

Any response to this action should be mailed to: Commissioner of Patents and Trademarks Washington, D.C. 20231, **or faxed to:** (703) 746-7239, (for formal communications intended for entry), **or faxed to:** (703) 746-7238, (for after final communications intended for entry), **Or:** (703) 746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT"). Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.



Jean R. Homere
Primary Examiner, A.U. 2177
November 27, 2002